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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/473,713	12/29/1999	GREGORY R.J. THATCHER	1995-033-12U	1352

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EXAMINER
DELACROIX MUIRHEI, CYBILLE

ART UNIT	PAPER NUMBER
1614	20

DATE MAILED: 06/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/473,713	Applicant(s) THATCHER ET AL.	
	Examiner Cybille Delacroix-Muirheid	Art Unit 1614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 13-20, 22, 24, 26, 28 and 33-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16, 18, 19, 22, 24, 26, 28, 34, 35 and 39 is/are allowed.
- 6) ☒ Claim(s) 14, 15, 17, 20, 41 and 42 is/are rejected.
- 7) ☒ Claim(s) 11, 13, 33, 36-38 and 40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

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DETAILED ACTION

The following is responsive to Applicant's amendment received Dec. 20, 2002.

Claim 12 is cancelled. No new claims are added. Claims ^{(1,} 13-20, 22, 24, 26, 28, 33-42.

All previous claim objections and rejections set forth in paragraphs 1-3 of the office action mailed Oct. 24, 2002 **are withdrawn** in view of Applicant's amendment and the remarks contained therein.

New Ground(s) of Rejection

Upon further consideration, it is noted that some of the allowed claims 33-40, i.e. claims 11, 13, 33, 36, 37, 38, 40, contain issues which warrant an objection. However, said claims remain free from the prior art. Please see the objection below.

Claim Objections

1. Claims 11, 13, 33, 36, 37, 38, 40 are objected to because of the following informalities: in said claims, after the phrase "administering to" and before "subject", it is respectfully requested that Applicant delete "a" and add --the-- . Such an amendment will tie the body of the claim to the preamble and clearly set forth that the claimed compounds are to be administered to a patient in need of the claimed treatment. Appropriate correction is required.

Claim Rejections - 35 USC § 112

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2. Claims 14, 15, 17, 20, 41, 42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 14 recites the limitation "wherein F2 is a nitrate group" in line 1. There is insufficient antecedent basis for this limitation in the claim. Furthermore, at line 5, there is no antecedent basis for "G2 is not a nitrate group, nor Rn-Zn". Finally, the limitations at lines 1-3 do not have antecedent basis in claim 11. Substituents "E", F1", G1", "G2" are defined in claim 11 as being specific moieties, e.g. "E is a methylene group and G1 is a methylene group or does not exist." Therefore, the limitations in claim 14 not only do not have antecedent basis but are also broader than the limitations in claim 11.

4. Claim 15 recites the limitation "wherein F2 is a nitrate group" in line 1. There is insufficient antecedent basis for this limitation in the claim.

5. Claim 17 recites the limitation "R2 and R4 are the same or different and are selected from acyl groups (C(O)R5)" in line 5-6. There is insufficient antecedent basis for this limitation in the claim. Claim 13 does not appear to define R2 and R4 as being acyl groups (C(O)R5).

6. Claim 20 recites the limitation "PO3HM" and "SR7"" in line 6. There is insufficient antecedent basis for this limitation in the claim. Please note the substituent "Y" is not defined in claim 13 as being "PO3HM". Likewise, substituent "Y" is not defined in claim 13 as being "SR7". Additionally, claim 20 is vague and indefinite due to the limitation "or C1 or C2 connections to R1 and R3 in cyclic derivatives." Said limitation is vague and indefinite because

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it does not clearly depict a generic chemical structure from which one of ordinary skill in the art can determine the scope of the claim protection provided. Additionally, "cyclic derivatives" is vague and indefinite because it is not clear what Applicant intends to encompass by said limitation. In other words, it is respectfully submitted that one of ordinary skill in the art would not be readily apprised of the scope of the claimed invention. The metes and bounds of the patent protection desired is unclear.

7. The limitations set forth in claims 41 and 42 at lines 2-5 and lines 1-8, respectively have no antecedent basis. Specifically, in claim 41, "G2" is not defined in claim 13 as being "Rn-Zn", nor do the following limitations which define "Rn-Zn" have antecedent basis. With respect to claim 42, the limitations at lines 1-3 do not have antecedent basis in claim 13. Substituents "E", F1", G1", "G2" are defined in claim 13 as being specific moieties, e.g. "'G2-G1-CF1F2 is R19-(R3R4C)p-(R17R18C)n-." Therefore, the limitations at lines 1-3, in claim 42 not only do not have antecedent basis but are also broader than the limitations in claim 13. Finally, the limitation "G2 is not a nitrate group, nor Rn-Zn" has no antecedent basis in claim 13.

Conclusion

Claims 11, 13, 33, 36, 37, 38, 40 are objected to.

Claims 14, 15, 17, 20, 41, 42 are rejected.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cybille Delacroix-Muirheid whose telephone number is (703) 306-3227.

The examiner can normally be reached on Tue-Fri from 8:30 to 6:00. The examiner can also be reached on alternate Mondays.

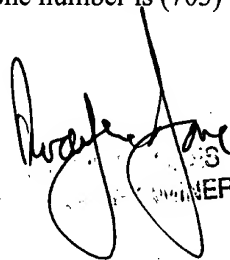
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel, can be reached on (703) 308-4725. The fax phone number for this Group is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

CDM



June 4, 2003


EXAMINER